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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,376	11/14/2001	Mark M. Wang	265/083	1411

34263 7590 09/17/2003

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114 PACIFICA, SUITE 100
IRVINE, CA 92618

EXAMINER

WEBER, JON P

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 09/17/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/993,376

Applicant(s)

WANG ET AL. #10

Examiner

Jon P Weber, Ph.D.

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1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED-STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Status of the Claims

Claims 1-4 have been presented for examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, and as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: analysis steps, and steps relating illuminating and separating for example. There is no clear relationship between the steps provided and the stated purpose in the preamble of the claim or each other. The claims are so incomplete and confusing that no discernable method can be obtained: for example, terms are introduced in the latter part of the claim without antecedent basis; the nature of desired parameters is not set forth; and the manner of the use of the spectral response is not indicated.

The language of a claim must make it clear what subject matter the claim encompasses to adequately delineate its "metes and bounds". See, e.g., the following decisions: In re Hammack, 427 F.2d. 1378, 1382, 166 USPQ 204, 208 (CCPA 1970); In re Venezia 530 F.2d. 956, 958, 189 USPQ 149, 151 (CCPA 1976); In re Goffe, 526 F.2d. 1393, 1397, 188 USPQ 131, 135 (CCPA 1975); In re Watson, 517 F.2d. 465, 477, 186 USPQ 11, 20 (CCPA 1975); In re Knowlton 481 F.2d. 1357, 1366, 178 USPQ 486, 492 (CCPA 1973).

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The courts have also indicated that before claimed subject matter can properly be compared to the prior art, it is essential to know what the claims do in fact cover. See, e.g., the following decisions: In re Steele, 305 F 2d. 859, 134 USPQ 292 (CCPA 1962); In re Moore 439 F 2d. 1232, 169 USPQ 236 (CCPA 1969); In re Merat, 519 F 2d. 1390, 186 USPQ 471 (CCPA 1975).

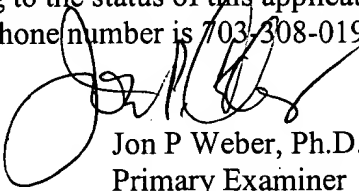
In the instant case, the claimed invention is so incompletely set forth that no reasonable examination or search can be performed. Further, and for the same reasons, the Information Disclosures filed 05 March 2002, 28 October 2002 and 28 May 2002 will not be considered at this time.

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon P Weber, Ph.D. whose telephone number is 703-308-4015. The examiner can normally be reached on daily, off 1st Fri, 9/5/4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Wityshyn can be reached on 703-308-4743. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.



Jon P Weber, Ph.D.
Primary Examiner
Art Unit 1651

JPW